



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 150623546-6395-02]

RTID 0648-XB228

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2021 Closure for Spiny Lobster in the U.S. Caribbean off Puerto Rico

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closures.

SUMMARY: NMFS implements an accountability measure (AM) for spiny lobster in the U.S. Caribbean exclusive economic zone (EEZ) around Puerto Rico. NMFS has determined that the annual catch limit (ACL) for spiny lobster in Puerto Rico was exceeded based on average landings during the 2017 through 2019 fishing years. Therefore, NMFS reduces the length of the 2021 fishing season for spiny lobster in the EEZ around Puerto Rico by the amount necessary to ensure that landings do not exceed the ACL in 2021. This AM is necessary to protect the spiny lobster resource in the EEZ around Puerto Rico.

DATES: This temporary rule is effective from 12:01 a.m., local time, on August 22, 2021, through September 30, 2021.

FOR FURTHER INFORMATION CONTACT: Sarah Stephenson, NMFS

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SUPPLEMENTARY INFORMATION: The spiny lobster fishery of the U.S. Caribbean is managed under the Fishery Management Plan for Spiny Lobster of Puerto Rico and the U.S. Virgin Islands (USVI) (Spiny Lobster FMP). The Spiny Lobster FMP was prepared by the Caribbean Fishery Management Council (Council) and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On June 26, 2020, NMFS published in the **Federal Register** a notice of availability for three island-based FMPs and requested public comment (85 FR 38350). On September 21, 2020, the Secretary of Commerce approved the three island-based FMPs under section 304(a)(3) of the Magnuson-Stevens Act. The three island-based FMPs replace the four U.S. Caribbean-wide FMPs, including the Spiny Lobster FMP. However, NMFS is still developing regulations to implement management measures for the three island-based FMPs. Therefore, this temporary rule implements the AM based on the Spiny Lobster FMP under regulations located at 50 CFR 622.12(a)(3).

The final rule implementing the 2011 Caribbean ACL Amendment, which included Amendment 5 to the Spiny Lobster FMP, among others, established an ACL and AM for spiny

lobster in each island management area in the U.S. Caribbean (76 FR 82414, December 30, 2011). For Puerto Rico, the ACL for spiny lobster is 327,920 lb (148,742 kg), round weight. In accordance with regulations at 50 CFR 622.12(a)(3), if NMFS estimates landings have exceeded the spiny lobster ACL, based on an evaluation of a moving multi-year average of landings, NMFS will reduce the length of the fishing season for spiny lobster by the amount necessary to ensure landings do not exceed the ACL. If NMFS determines the ACL was exceeded because of enhanced data collection and monitoring efforts instead of an increase in total catch, NMFS will not reduce the length of the fishing season.

Based on the most recent available landings data from the 2017-2019 fishing years, NMFS has determined that the spiny lobster ACL for Puerto Rico was exceeded. In addition, NMFS determined that the ACL was exceeded because of increased catch and not as a result of enhanced data collection and monitoring efforts.

This temporary rule implements an AM for spiny lobster to reduce the length of the 2021 fishing season to ensure that landings do not exceed the spiny lobster ACL in the 2021 fishing year. Therefore, the spiny lobster fishery in the EEZ around Puerto Rico is closed from 12:01 a.m., local time, on August 22, 2021, through September 30, 2021. The EEZ around Puerto Rico consists of those waters seaward of

the 9-nmi (16.7-km) boundary around the Commonwealth of Puerto Rico.

During the closure period for spiny lobster announced in this temporary rule, both the commercial and recreational sectors are closed. Spiny lobster in or from the EEZ around Puerto Rico may not be harvested, possessed, purchased, or sold, and the bag and possession limits are zero.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 622.12(a)(3), which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rules implementing the ACL and the associated AM have already been subject to notice and public comment, and all that remains is to notify the public of the closure. Such procedures are also contrary to the public interest because of the need to immediately implement the closure to protect the spiny lobster stock around Puerto Rico. The ACL has been exceeded based on an evaluation of available landings from the 2017-2019 fishing

years. Prior notice and opportunity for public comment would require time and could result in additional harvest that could negatively affect NMFS' ability to control harvest this fishing year within the established ACL.

For the aforementioned reasons, there is good cause to

waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d) (3) .

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 26, 2021.

Jennifer M. Wallace,
Acting Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.